



October 22, 2012

EX PARTE PRESENTATION

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte Presentation in WT Docket No. 12-70, *Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands*; ET Docket No. 10-142, *Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz*; and WT Docket No. 04-356, *Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands*

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, DISH Network Corporation ("DISH") submits this letter summarizing a meeting on Thursday, October 18, 2012 with Commissioner Mignon Clyburn and Louis Peraertz, Legal Advisor, Wireless, International, and Public Safety, for Commissioner Clyburn. Present on behalf of DISH were Jeffrey Blum, Senior Vice President and Deputy General Counsel; Alison Minea, Corporate Counsel; and John Flynn, outside counsel.

During the meeting, DISH urged the Commission to complete the above-referenced rulemaking as expeditiously as possible, and maintain the existing band plan, consistent with the *AWS-4 NPRM*.¹ Codifying the AWS-4 rules as proposed in the *AWS-4 NPRM* will allow the Commission to unleash 40 MHz of spectrum for mobile broadband use, thereby enabling DISH's entry as a disruptive competitor in the wireless market.

¹ Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands, WT Docket No. 12-70, Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz, ET Docket No. 10-142, Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands, WT Docket No. 04-356, *Notice of Proposed Rulemaking and Notice of Inquiry*, FCC 12-32 (rel. Mar. 21, 2012) ("AWS-4 NPRM").

DISH explained that the Commission has before it a path to maximize spectrum use and wireless competition by preserving all 40 MHz of AWS-4 spectrum *and* all 10 MHz of the H Block (1915-1920 MHz, 1995-2000 MHz).² Sprint's proposal³ to predetermine the future use of the H Block for full-power LTE by imposing unwarranted technical restrictions on DISH will threaten DISH's ability to enter the wireless market with no offsetting benefits to the public interest or competition. Among other things, Sprint's proposal would cause at least 25 percent of DISH's uplink to be unusable, create delay and risk in the 3rd Generation Partnership Project ("3GPP") standard-setting process for the AWS-4 band by reopening the Band 23 standard, increase deployment costs for AWS-4, and fail to create a net gain of spectrum for mobile broadband.

Rather than impose unnecessary emissions limits on AWS-4 operations now, DISH explained that the Commission can reach a win-win result that offers a path to use the H Block for broadband, attracts bidders to a future H Block auction, and reduces harmful interference into AWS-4. In particular, DISH urged the Commission to preserve the technical rules as proposed in the *AWS-4 NPRM*, rather than prematurely setting technical rules now that would harm DISH's chances for success. In addition, the Commission should evaluate potential low-power uses of the H Block for, among other things, small cell deployment, which will increase the chances of a successful auction and encourage broader auction participation, including by DISH. Such an approach facilitates mobile broadband usage of H Block while preserving all 40 MHz of AWS-4 spectrum.

Given increasing wireless industry consolidation, DISH needs more spectrum, not less, in order to have a chance to be successful. The Commission has long stated its desire to bring more spectrum to market, promote spectral efficiency, and encourage competition. Maintaining the existing AWS-4 band plan and proposed technical rules will allow the Commission to accomplish all of these goals.

² See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, § 6401(b) (2012) (directing the Commission, within three years of enactment, to allocate, auction, and license each of the lower and upper H Blocks for commercial use under flexible-use service rules, unless it determines that the respective spectrum blocks "cannot be used without causing harmful interference to [PCS operations in the 1930-1995 MHz band]"). The Commission has paired the lower H Block with the upper H Block, and has proposed service rules that would license the entire H Block as two paired channels of 5 megahertz each. See Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz, Sixth Report and Order, *Third Memorandum Opinion and Order, and Fifth Memorandum Opinion and Order*, 19 FCC Rcd 20720, ¶ 41 (2004); Service Rules for Advanced Wireless Services in the 2155-2175 MHz Band, *Further Notice of Proposed Rulemaking*, 23 FCC Rcd 9859, ¶ 4, App. A (2008).

³ See Letter from Stephen Bye and Lawrence Krevor, Sprint Nextel Corporation, to Chairman Genachowski, FCC, WT Dkt. Nos. 12-70, 04-356, ET Dkt. No. 10-142 (Oct. 2, 2012) ("[T]he Commission should establish reasonable service rules that provide H Block operations with the same level of protection from 2 GHz S Band interference as the PCS G Block").

Respectfully submitted,

/s/ Jeffrey H. Blum

Jeffrey H. Blum

cc: Louis Peraertz